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No. 82-1889

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1982

SPRINGFIELD TOWNSHIP SCHOOL DISTRICT, a political subdivision of the Commonwealth of Pennsylvania; ROMAN, LOUIS A., Superintendent, Springfield Township School District; LAWN, JOHN J., HANSHAW, MARIE M., COMMINS, JAMES A., GOREN, SARA LEE, HOCH JR., WILLIAM C., HOGUE JR., E. BURKE, KALISH, SALLY, LIEBERMAN, MAX L. AND TOBIN, HARPUR M., Individually and as members of the Board of School Directors, Springfield Township School District,

Petitioners

v.

KNOLL, MADELIN H.,

Respondent

On Writ of Certiorari to the United States Court of Appeals for the Third Circuit, Petition for Certiorari filed May 20, 1983, Certiorari Granted July 2, 1984.

JOINT APPENDIX

Charles Potash, Esquire
WISLER, PEARLSTINE, TALONE, CRAIG & GARRITY
515 Swede Street
Norristown, PA 19401
(215) 272-8400
Counsel for Petitioners

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BEST AVAILABLE COPY

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CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

Apr. 1, 1981 — Plaintiff's Complaint filed.

June 3, 1981 — Defendants' Answer filed.

Aug. 9, 1981 — Defendants' Motion for Summary Judgment, Brief and Certificate of Service filed.

Sept. 10, 1981 — Plaintiff's Brief in Opposition to Motion for Summary Judgment filed.

Mar. 12, 1982 — Defendants' Supplemental Brief in Support of Motion for Summary Judgment filed.

Mar. 15, 1982 — Opinion and Order of the United States District Court granting Summary Judgment and entering Judgment in favor of Defendants and against the Plaintiff filed.

Apr. 16, 1982 — Plaintiff's Notice of Appeal from the Final Order and Judgment filed April 15, 1982, filed.

Jan. 27, 1983 — Opinion of the United States Court of Appeals for the Third Circuit filed.

Jan. 27, 1983 — Judgment of the United States Court of Appeals filed.

Feb. 10, 1983 — Defendants' Petition for Rehearing under F.R.A.P. 40 and Suggestion for Rehearing In Banc under F.R.A.P. 35 filed.

Feb. 23, 1983 — Order Denying Rehearing and Statement of Judge Adams sur Denial of Petition for Rehearing filed.

May 20, 1983 — Petition for Writ of Certiorari to the United States Court of Appeals for the Third Circuit filed.

July 2, 1984 — Order Allowing Certiorari filed.

(PLEASE PRINT OR TYPE)

APPROVED BY GAO B — 180541 (RO511) Expires 1-31-81	**CHARGE OF DISCRIMINATION** IMPORTANT: This form is affected by the Privacy Act of 1974, see Privacy Act Statement on reverse before completing it.	CHARGE NUMBER(S) (AGENCY USE ONLY) ☐ STATE/LOCAL AGENCY ☐ EEOC 031810642

Equal Employment Opportunity Commmission and

(State or Local Agency)

NAME (Indicate Mr., Ms. or Mrs.)
Ms. Madelin Knoll

HOME TELEPHONE NUMBER (Indicate area code)
215-646-6214

STREET ADDRESS
1432 Fort Washington Avenue

CITY, STATE, AND ZIP CODE
Ambler, Pa. 19002

COUNTY
Montgomery

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME. (If more than one list below).

NAME
Springfield Township School District

TELEPHONE NUMBER (Include area code)
215-233-6000

STREET ADDRESS
1901 E. Paper Mill Road

CITY, STATE, AND ZIP CODE
Oreland, Pa. 19075

NAME

TELEPHONE NUMBER (Include area code)

STREET ADDRESS

CITY, STATE, AND ZIP CODE

CAUSE OF DISCRIMINATION BASED ON MY (Check appropriate box(es))

☐ RACE ☐ COLOR ☒ SEX female ☐ RELIGION ☐ NATIONAL ORIGIN ☐ OTHER (Specify)

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE *(Month, day, and year)*
September 1980

THE PARTICULARS ARE:

A-2

CHARGE OF DISCRIMINATION	CHARGE NUMBER(S) AGENCY USE ONLY STATE/LOCAL AGENCY EEOC 031810642

Charging Party _____ Knoll

Respondent _____ Springfield Township School District.

I was hired by Respondent in 1968. In July 1979, I applied for a position as Administrative Assistant. I was not selected for the position. In August 1979, Respondent promised to create an administrative position for me. On May 28, 1980, I was informed that no position would be created for me. Because I was denied the position of Administrative Assistant, coupled with Respondent's failure to create an administrative position for me, as promised, I was denied the opportunity to be considered for the position of Assistant Superintendent in September 1980.

I was informed by Lou Roman, Superintendent, that an administrative position would be created for me. Respondent gave no reason for not creating the administrative position.

I believe that I have been discriminated against because of my sex, female, for the following reasons:

1. In July 1979, I applied for a position as Administrative Assistant. I was fully qualified and certified for the position. I was not selected. Frank Romano (M), who was not certified, was selected for the position as Administrative Assistant.

2. In August 1979, Lou Roman, Superintendent, orally promised to create an administrative position for me during school year 1979-80.

3. On May 28, 1980, I was informed by a letter from Mr. Roman that no new administrative position had been created nor would there be one created during school year 1980-1981.

4. In September 1980, Frank Romano, Administrative Assistant, was promoted to Assistant Superintendent.

5. It is my belief that had I been selected for the position of Administrative Assistant in July 1979, I would have been promoted to Assistant Superintendent in September 1980.

6. Respondent employs approximately seven (7) employees in top administrative positions of whom only one (1) is female.

A-3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
PHILADELPHIA DISTRICT OFFICE
127 N. FOURTH STREET
PHILADELPHIA, PENNSYLVANIA 19106

031810642 Charge Number:

Madelin Knoll Charging Party

and

Springfield Township
School District Respondent

DISMISSAL

Under the authority vested in me by the Commission's Procedural Regulations, I issue on behalf of the Commission, the following determination dismissing the charge because it was untimely filed.

A charge of discrimination such as this must be filed within 180 days after the alleged violation. This charge was received more than 180 days after the date of the alleged violation. I dismiss the charge because it was untimely filed. Thus I make no determination as to whether or not Respondent actually engaged in unlawful conduct under Title VII as alleged in the charge. Such determination may be made by the Commission only with respect to charges filed within the time limitation set in Title VII.

This dismissal concludes the Commission's processing of this charge. Should the Charging Party wish to pursue this matter further, one may do so by filing a private action in Federal District Court against the Respondent named above within 90 days of receipt of this letter and by taking the other procedural steps set out in the enclosed NOTICE OF RIGHT TO SUE.

On behalf of the Commission

Johnny J. Butler
District Director

1/22/81
(date)

Enclosures: (2)
Notice of Right to Sue
Copy of the Charge

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE

(Dismissal)

To:	From:
Ms. Madelin Knoll 1432 Fort Washington Avenue Ambler, PA 19002	Equal Employment Opportunity Commission Philadelphia District Office 127 North Fourth Street Philadelphia, Pennsylvania 19106

CHARGE NUMBER:	EEOC REPRESENTATIVE:	TELEPHONE NUMBER:
031810642	Legal Unit	215-597-0881

(See Section 706(f)(1) and (f)(3) of the Civil Rights Act of 1964 on reverse of this form.)

This is your NOTICE OF RIGHT TO SUE. It is issued because the Commission has dismissed your charge. Your charge was dismissed for the following reason:

☒ No jurisdiction, therefore, the Commission has no authority to process your charge further.
☐ No reasonable cause was found to believe that the allegations made in your charge are true, as indicated in the attached determination.
☐ You failed to provide requested necessary information, failed or refused to appear or be available for necessary interviews/conferences or otherwise refused to cooperate to the extent that the Commission has been unable to resolve your charge. You have had more than 30 days in which to respond to our final written request.
☐ The Commission has made reasonable efforts to locate you and has been unable to do so. You have had at least 30 days in which to respond to a notice sent to your last known address.
☐ The respondent has made a written settlement offer which affords full relief for the harm you alleged. At least 30 days have expired since you received actual notice of this settlement offer.

The issuance of this NOTICE OF RIGHT TO SUE terminates the Commission's processing of your charge. If you want to pursue your charge further, you have the right to sue the respondent(s) named in your charge in United States District Court. IF YOU DECIDE TO SUE, YOU MUST DO SO WITHIN NINETY (90) DAYS FROM THE RECEIPT OF THIS NOTICE OF RIGHT TO SUE; OTHERWISE YOUR RIGHT TO SUE IS LOST.

If you cannot afford or have been unable to obtain a lawyer to represent you, you should be aware that the Civil Rights Act of 1964, ... mended, 42 U.S.C. 2000e-5(f)(1) permits the U. S. District Court having jurisdiction in your case to appoint a lawyer to represent you. If you plan to request appo... ment of a Lawyer to represent you, you must make this request of the U. S. District Court in the form and manner it requires. *Your request to the U. S. District Court should be made well in advance of the end of the 90-day period mentioned above.*

You may contact the EEOC representative named above if you have any questions about your legal rights including advice on which U. S. District Court has jurisdiction to hear your case if you need to inspect and copy information contained in the Commission's case file.

An information copy of this Notice of Right to Sue has been sent to the respondent(s) shown below.

On Behalf of the Commission

January 28, 1981 — *(Date)*

Johnny J. Butler, District Director — *(Typed Name and Title of EEOC Official)*

cc: *Springfield Township School District*
Theodore M. Lieverman, Esq.
Charles Potash, Esq.

EXHIBIT "B"

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MADELIN H. KNOLL, *Plaintiff*	:	
vs.	:	
SPRINGFIELD TOWNSHIP SCHOOL DISTRICT, a political subdivision of the Commonwealth of Pennsylvania; LOUIS A. ROMAN, Superintendent, Springfield Township School District; JOHN J. LAWN, MARIE M. HANSHAW, JAMES A. COMMINS, SARA LEE GOREN, WILLIAM C. HOCH, JR., E. BURKE HOGUE, JR., SALLY KALISH, MAX L. LIEBERMAN, and HARPUR M. TOBIN, individually and as members of the Board of School Directors, Springfield Township School District, *Defendants*	:	Civil Action No. 81-1626

DEFENDANT'S ANSWER TO COMPLAINT

The above-named defendants, by their attorneys, Wisler, Pearlstine, Talone, Craig, & Garrity, Esquires, respond to Plaintiff's Complaint, as follows:

FIRST DEFENSE

This court lacks subject matter jurisdiction under the Civil Rights Act of 1964, 42 U.S.C. Section 2000e-5(f)(3), because no complaint was filed by or on behalf of plaintiff with the Federal Equal Employment Opportunity Commission within 180 days of the alleged discriminatory acts (see, Complaint, exhibit "B"). This court lacks subject matter jurisdiction under 28 U.S.C. Sections 1331 or 1343 for the reason that plaintiff's complaint fails to present any other colorable federal claims

or any alleged deprivation of any other federal right, privilege or immunity. This court lacks subject matter jurisdiction under 28 U.S.C. Section 2201 and 2202 for the reason that those sections do not confer any independent bases for federal court jurisdiction.

SECOND DEFENSE

This suit should be dismissed as to defendants Roman, Lawn, Hanshaw, Commins, Goren, Hoch, Hogue, Kalish, Lieberman and Tobin, for lack of jurisdiction over the person, for the reason that plaintiff has failed to cause service of the Summons and Complaint to be made upon them in accordance with the provisions of F.R.C.P. 4 (d)(1).

THIRD DEFENSE

The complaint should be dismissed as to defendant, Goren, for the reason that she was not a member of the Board of School Directors of the School District of Springfield Township at any time relevant to Plaintiff's asserted claims.

FOURTH DEFENSE

Plaintiff's complaint should be dismissed, for failure to state claims upon which relief can be granted, insofar as it seeks to assert claims against the individual defendants, in their individual as opposed to official capacities, for the reason that they possess an absolute and/or qualified immunity from suit relative to the exercise of the discretion vested in them as officials or members of the Board of School Directors of the School District.

FIFTH DEFENSE

Plaintiff's complaint otherwise fails to state claims upon which relief can be granted as to all defendants.

SIXTH DEFENSE

Defendants respond to the factual allegations contained in Plaintiff's Complaint, as follows:

1. Denied.
2. Denied.
3. Admitted.
4. Admitted.
5. Denied in part. It is denied that defendant, Roman, may properly be sued in his individual capacity.
6. Denied in part. It is denied that defendant, Lawn, may properly be sued in his individual capacity.
7. Denied in part. It is denied that defendant, Hanshaw, may properly be sued in her official capacity.
8. Denied in part. It is denied that defendant, Commins, may properly be sued in his individual capacity.
9. Denied. Defendant Goren, was not a member of the Board of School Directors at any time relevant to plaintiff's asserted claims. It is further denied that defendant Goren may properly be sued in her individual capacity.
10. Denied in part. It is denied that defendant, Hoch, may properly be sued in his individual capacity.
11. Denied in part. It is denied that defendant, Hogue, may properly be sued in his individual capacity.
12. Denied in part. It is denied that defendant, Kalish, may properly be sued in her individual capacity.
13. Denied in part. It is denied that defendant, Lieberman, may properly be sued in his individual capacity.
14. Denied in part. It is denied that defendant, Tobin, may properly be sued in his individual capacity.
15. Admitted.
16. Admitted.
17. It is admitted that plaintiff applied for a vacancy as Administrative Assistant to the Superintendent in July, 1979, and that she was properly certified for the position. The remainder of the averments in paragraph 17 are denied.

18. It is admitted that Frank Romano was appointed to the position of Administrative Assistant and that the Superintendent notified plaintiff of this on or about August 2, 1979. The remaining averments of paragraph 18 are denied.
19. It is denied that the Superintendent advised plaintiff at any time that he would create a new administrative position or that he would consider plaintiff as an applicant for that position if it was created. On the contrary, the Superintendent advised plaintiff that with the reduction in staff, there would probably be cuts in administrative positions. Plaintiff volunteered to send to the Superintendent a suggestion for the creation of new administrative positions to utilize her expertise. This list was sent to and was reviewed by the Superintendent who advised plaintiff that he would not recommend the creation of any of these positions suggested.
20. Admitted.
21. Denied.
22. Denied.
23. Denied.
24. Denied. Defendant employs eleven (11) top administrators, two (2) of which are women.
25. Denied. The allegations of paragraph 25 that defendants engaged in illegal and discriminatory acts and that plaintiff has been deprived of further opportunities for professional advancement are denied. The allegations of paragraph 25 that plaintiff has suffered alleged embarrassment, emotional duress, and mental pain and anguish are further denied for the reason that defendants are without sufficient knowledge or information to form a belief as to their truth. Further, if plaintiff experienced such conditions, it is denied that any of the defendants' conduct or acts caused such conditions.
26. Denied.

27. Admitted that plaintiff filed a charge with the Philadelphia Office of Federal Equal Employment Opportunity Commission on December 12, 1980. The remaining averments of paragraph 27 are denied for the reason that the complaint speaks for itself. By way of further answer, it is averred that the complaint filed with the Federal Equal Employment Opportunity Commission was not timely filed for the reason that the alleged discriminatory acts occurred more than 180 days prior to the filing of that complaint.

28. Admitted. By way of further answer, the Commission dismissed Plaintiff's charge for the reason that it was filed more than 180 days after the alleged discriminatory acts and that the Commission, therefore, lacked jurisdiction.

29. Denied.

30. Denied.

31. Denied.

WHEREFORE, defendants pray that this court dismiss Plaintiff's complaint, with prejudice, and enter judgment in their favor together with an award of all costs and attorneys fees incurred by them relative to the defense of this suit.

WISLER, PEARLSTINE,
TALONE, CRAIG & GARRITY

BY: _____
Charles Potash I.D. #09282
Harris F. Goldich I.D. #17686
Attorneys for Defendants
515 Swede Street
Norristown, PA 19401
(215) 272-8400

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MADELIN H. KNOLL,	:	
Plaintiff	:	Attorney I.D. No. 09282
vs.	:	
SPRINGFIELD TOWNSHIP SCHOOL DISTRICT, a political subdivision of the Commonwealth of Pennsylvania; LOUIS A. ROMAN, Superintendent, Springfield Township School District; JOHN J. LAWN, MARIE M. HANSHAW, JAMES A. COMMINS, SARA LEE GOREN, WILLIAM C. HOCH, JR., E. BURKE HOGUE, JR., SALLY KALISH, MAX L. LIEBERMAN, and HARPUR M. TOBIN, individually and as members of the Board of School Directors, Springfield Township School District,	:	CIVIL ACTION No. 81-1626
Defendants	:	

MOTION FOR SUMMARY JUDGMENT

Defendants, by their Attorneys, Wisler, Pearlstine, Talone, Craig & Garrity, Esquires, herewith move this Court for the dismissal of all of Plaintiff's asserted claims against them, for lack of subject matter jurisdiction, or, in the alternative, for the entry of judgment in their favor as to all of Plaintiff's asserted claims against them, on the ground that the pleadings and exhibits attached thereto show that there is no genuine issue as to any material fact which would permit Plaintiff to recover, as a matter of law, for the following reasons:

1. This court lacks subject matter jurisdiction as to all of Plaintiff's asserted claims under the Civil Rights Act of 1964, 42 U.S.C. Section 2000e-5

(f)(3), in that no complaint was filed by or on behalf of Plaintiff with the Federal Equal Employment Opportunity Commission within 180 days of the alleged discriminatory acts (see, Complaint, Exhibit "A", at p. 5; Exhibit "B");

2. This court lacks subject matter jurisdiction as to Plaintiff's asserted Title VII claims against the individual Defendants because no Complaint was filed by or on behalf of Plaintiff with the EEOC, naming them as respondents, at any time. (see Complaint, Exhibits "A" and "B");

3. This court lacks subject matter jurisdiction under 28 U.S.C. Section 1331 or 1343 for the reason that Plaintiff's other asserted federal claims are not colorable because of her failure to timely pursue her Title VII remedy and her failure to either give written notice or commence suit within 180 days of the alleged discriminatory act, as required by then applicable Pennsylvania statutes of limitations;

4. This court lacks subject matter jurisdiction of Plaintiff's asserted claims for punitive damages for the reason that said claims are not colorable under the holdings of the United States Supreme Court in *City of Newport vs. Fact Concerts, Inc.* , U.S. , 49 L.W. 4860 (1981); and *Great American Federal Savings and Loan Association vs. Novotny*, 442 U.S. 366 (1978);

5. This court lacks subject matter jurisdiction as to Plaintiff's asserted claims against the individual Defendants, in their individual capacities, for the reason that Plaintiff has alleged no bad faith, recklessness or malice;

6. In the alternative, in the event that this court determines that it has subject matter jurisdiction over Plaintiff's asserted claims, it should, for the reasons set forth above, enter judgment in Defendants' favor on the ground that Plaintiff's Complaint fails to state claims upon which relief can be granted, as a matter of law.

WHEREFORE, Defendants above named pray that this court dismiss all of Plaintiff's asserted claims against them for lack of subject matter jurisdiction, or, in the alternative, enter judgment in their favor and against Plaintiff as to all of Plaintiff's asserted claims.

WISLER, PEARLSTINE, TALONE, CRAIG & GARRITY

BY: _____

Charles Potash, Esquire
Harris F. Goldich, Esquire,
Attorneys for Defendants
515 Swede Street
Norristown, PA 19401
(215) 272-8400

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document by mailing a copy of same, first class mail, postage prepaid to the following:

Theodore M. Lieberman, Esquire
1429 Walnut Street
Philadelphia, PA 19102

Charles Potash

Dated: August 17, 1981

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MADELIN H. KNOLL	:	
	:	
vs.	:	Civil Action
SPRINGFIELD TOWNSHIP	:	
SCHOOL DISTRICT, et al.	:	No. 81-1626

NOTICE OF APPEAL

Notice is hereby given that Madelin H. Knoll, Plaintiff above mentioned hereby appeals to the U. S. Court of Appeals for the Third Circuit from the final Order entering judgment against her in favor of the Defendants on the 17th day of March, 1982.

/S/

1005 Penllyn Pike
Spring House, PA 19477
Attorney for Plaintiff